

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mercedes Bayon	Team: Squad #13	CCRB Case #: 201210275	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 08/04/2012 10:40 PM	Location of Incident: McClellan Street and Carroll Place	Precinct: 44	18 Mo. SOL 2/4/2014	EO SOL 2/4/2014	
Date/Time CV Reported Sun, 08/05/2012 12:05 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/09/2012 2:10 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Ackermann	01979	937940	044 PCT
2. LT Wilbert Morales	00000	895757	044 PCT
3. POF Rebecca Guzman	20432	940229	044 PCT
4. Officers			044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Ackermann	Force: PO Michael Ackermann used physical force against § 87(2)(b)	
B.POM Michael Ackermann	Discourtesy: PO Michael Ackermann spoke rudely to § 87(2)(b)	
C.POM Michael Ackermann	Abuse: PO Michael Ackermann refused to provide his shield number to § 87(2)(b)	
D.POF Rebecca Guzman	Abuse: PO Rebecca Guzman refused to provide her shield number to § 87(2)(b)	
E.LT Wilbert Morales	Force: Lt. Wilbert Morales used physical force against § 87(2)(b)	
F. Officers	Force: Officers used physical force against § 87(2)(b)	

Case Summary

On August 4, 2012, at approximately 10:40 p.m., § 87(2)(b) (encl. 15-27), § 87(2)(b) § 87(2)(b), was in the vicinity of McClellen Street and Carroll Place in the Bronx. § 87(2)(b) was present with his press credentials hanging visibly around his neck. § 87(2)(b) § 87(2)(b) was in the area to work on a story about NYPD officers and the stop, question, and frisk policy. § 87(2)(b) was present with two other § 87(2)(b) § 87(2)(b), § 87(2)(b) § 87(2)(b) and § 87(2)(b) who both had their press credentials visible around their necks. While working on the project together, they approached an incident that was occurring at this location. There were approximately 20 police officers at the location and there were police perimeters set up at each end of McClellen Street. There were also a number of civilians scattered about this location. § 87(2)(b) and § 87(2)(b) were recording and taking still photographs of officers interacting with a group of unknown males. After about one minute, § 87(2)(b)'s attention was drawn to an arrest of a woman that was occurring directly across the street on McClellen Street. § 87(2)(b) crossed the street and began taking photographs from the curb. He stated that he was approximately 30 feet away from where the arrest was occurring. As § 87(2)(b) was taking photographs, he walked closer to the arrest and stood approximately two to three feet away from the officers escorting the arrested woman.

From this distance, § 87(2)(b) continued to take photographs. At this time, PO Rebecca Guzman of the 44th Precinct approached and placed her hand over the lens of § 87(2)(b)'s camera in an attempt to block him from taking photographs. In response, § 87(2)(b) grabbed his press credentials and lifted them to eye level so that PO Guzman could see that he had the right to be present and photograph the incident. PO Michael Ackermann of the 44th Precinct approached and also placed his hand over the lens of § 87(2)(b)'s camera. § 87(2)(b) was holding the camera up to his face, and when PO Ackermann placed his hands over the lens, PO Ackermann pushed the camera, which struck § 87(2)(b)'s face (**Allegation A**). PO Ackermann allegedly stated to § 87(2)(b) “Get the fuck out of here” (**Allegation B**). § 87(2)(b) § 87(2)(b) backed away from PO Guzman and PO Ackermann and asked them for their shield numbers, but they did not provide him with the information (**Allegations C and D**). The female who was arrested was escorted past § 87(2)(b) at this time, and PO Guzman and PO Ackermann walked away from § 87(2)(b). As the officers walked away, § 87(2)(b) again loudly requested their badge numbers. PO Guzman and PO Ackermann “aggressively” approached § 87(2)(b) again, yelled at him, and § 87(2)(b) stepped backwards possibly into the street, and the officers then walked away. Following this, Lt. Wilbert Morales of the 44th Precinct “rushed him” and violently took him to the ground (**Allegation E**). § 87(2)(b) stated that other officers assisted in taking him to the ground, but he could not describe or identify these officers. § 87(2)(b) was then dragged by his upper body approximately two to three feet, from which he sustained scrapes to his elbows and knees. § 87(2)(b) felt officers, who he could not describe or see, grab his arms, pull them behind his back, and handcuff him. While he was on the ground being handcuffed he felt unknown officers kick the side of his body, step on the back of his neck, and step on the back of his head (**Allegation F**). He was then lifted from the ground, walked to the prisoner van, and placed inside. § 87(2)(b) was arrested and charged with obstructing governmental administration in the second degree and resisting arrest. Upon release, § 87(2)(b) sought medical treatment at § 87(2)(b), but § 87(2)(b) did not have any broken bones or excessive injuries. During § 87(2)(b)'s CCRB interview he refused to sign a HIPAA form to release his medical records.

This case was placed on the agency's sensitive case list § 87(2)(g) § 87(2)(g)

PO Ackermann was indicted related to this case for falsifying § 87(2)(b)'s arrest paperwork. As a result of the above, Assistant District Attorney Pishoy Yacoub did not permit the CCRB to interview any police officers involved in this incident. This case was placed on DA hold on March 25, 2013, and remains on DA hold to date.

Mediation, Civil, and Criminal Conviction Histories

This case was not mediation eligible § 87(2)(g)

§ 87(2)(b) A Notice of Claim inquiry was submitted and will be included in the case file upon receipt.

§ 87(2)(b)

Civilian and Officer CCRB Histories

§ 87(2)(b) filed two previous CCRB complaints, § 87(2)(b)

Lt. Morales has been a member of service for 26 years and has 15 previous CCRB cases, involving 29 allegations. In CCRB case number 9403275 a physical force allegation was substantiated against him. Lt. Morales has had nine previous physical force allegations alleged against him (encl. 10-11).

PO Guzman has been a member of service for nine years and has four previous CCRB cases, involving nine allegations, none of which were substantiated. PO Guzman had one previous refusal to provide name and shield number allegation against him. § 87(2)(g)

PO Ackermann has been a member of service for nine years and has five previous CCRB cases, involving 10 allegations. In CCRB case number 200710383, a vehicle stop allegation, a vehicle search allegation, a frisk allegation, and a search allegation were substantiated against him. § 87(2)(g)

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) stated that the officer who used discourteous language toward him, refused to provide his shield number to him, and pushed his camera into his face was his arresting officer. According to § 87(2)(b)'s arrest paperwork, PO Ackermann was his arresting officer. § 87(2)(g)

ADA Yacoub identified the female subject officer as PO Rebecca Guzman and identified the subject officer in a white shirt who brought § 87(2)(b) to the ground as Lt. Wilbert Morales.

§ 87(2)(g)

§ 87(2)(b) alleged that several officers took him to the ground and used force against him. However, he was unable to see these officers to describe or identify them. Further as the case has been on DA hold, the CCRB was not permitted to interview any police officers to determine the identities of the officers who assisted in § 87(2)(b)'s arrest. § 87(2)(g)

Recommendations:

Allegation A: Force: PO Michael Ackermann used physical force against § 87(2)(b)

Allegation E: Force: Lt. Wilbert Morales used physical force against § 87(2)(b)

§ 87(2)(b) (encl. 15-27) testified that he was taking still photographs of an arrest occurring on McClellan Street and Carroll Place. § 87(2)(b) who was wearing his press credentials around his neck, was standing near the curb approximately 30 feet away from where the arrest was taking place. As the person who was arrested was being escorted down the block, § 87(2)(b) continued to take photographs from about two to three feet away. § 87(2)(b) stated that neither he nor his equipment made contact with any of the officers, and no officer instructed him to move back. As § 87(2)(b) was taking photographs, PO Guzman approached and placed her hand over the lens of § 87(2)(b)'s camera, preventing him from taking photographs. Following this, PO Ackermann approached, also placed his hand over the camera lens, and pushed the camera, causing the camera to strike § 87(2)(b)'s face. § 87(2)(b) provided a photograph where an officer's hand is covering his camera lens (encl. 22). § 87(2)(b) also alleged that after PO Guzman and PO Ackermann walked away from him, Lt. Morales "rushed him" and violently took him down to the ground. Both § 87(2)(b) (encl. 28-32) and § 87(2)(b) (encl. 33-36) stated that § 87(2)(b) was standing some distance away from the officers and the woman who was being arrested, and § 87(2)(b) specifically corroborated that PO Ackermann pushed § 87(2)(b) and both § 87(2)(b) and § 87(2)(b) corroborated that § 87(2)(b) was taken to the ground after he had backed away from where the arrest was taking place.

NYPD Patrol Guide procedure 203-11 states that officers may only use the minimum amount of force necessary to overcome resistance, effect an arrest, or take a violent or emotionally disturbed person into custody (encl. 1-2).

§ 87(2)(g)

Allegation B: Discourtesy: PO Michael Ackermann spoke rudely to § 87(2)(b)

Allegation C: Abuse of Authority: PO Michael Ackermann refused to provide his shield number to § 87(2)(b)

Allegation D: Abuse of Authority: PO Rebecca Guzman refused to provide her shield number to § 87(2)(b)

§ 87(2)(b) (encl. 15-27) stated that when PO Ackermann pushed his camera, he also stated to § 87(2)(b) “Get the fuck out of here.” According to § 87(2)(b) he began backing up towards the street and continued to show his press credentials. At this point, § 87(2)(b) began asking both PO Ackermann and PO Guzman for their badge numbers. As he asked them for the information, they were both standing within a few inches of him and they heard him request the information. However, PO Guzman and PO Ackermann continued to yell at § 87(2)(b) and mock him, but never provided the requested information. Shortly thereafter, PO Guzman and PO Ackermann walked away and § 87(2)(b) again screamed in a loud tone that he wanted their badge numbers. PO Guzman and PO Ackermann turned back to § 87(2)(b) and “aggressively” approached him, but neither provided their shield number.

According to NYPD Patrol Guide procedure 203-09, officers are required to be courteous and respectful to members of the public; and they are required to courteously and clearly state their rank, name, shield number, and command, or otherwise provide them, to anyone who requests the information (encl. 3).

§ 87(2)(g)

Allegation F: Force: Officers used physical force against § 87(2)(b)

According to § 87(2)(b) (encl. 15-27), he was taken to the ground “aggressively,” but he could not describe how he was specifically taken to the ground. § 87(2)(b) stated that it was several unknown officers who took him to the ground, but he could not see these officers and thus was unable to identify or describe them. After being taken to the ground, § 87(2)(b) was allegedly dragged by his upper body approximately two to three feet, from which he sustained scrapes to his elbows and knees. Following this, § 87(2)(b) felt officers, who he could not see, grab his arms and pull them behind his back. He felt unknown officers repeatedly kick him on the side of his body, step on the back of his neck, and step on the back of his head. § 87(2)(b) explained that he was immobilized on the ground and was not moving or making any statements. § 87(2)(b) was then lifted from the ground after being placed in handcuffs.

§ 87(2)(g)

Pod: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date